

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ANTHONY LANCASTER,

Petitioner,

v.

CHARLES GREEN,

Respondent.

:
:
:
:
:
:
:
:
:
:
:

Civ. No. 18-9132 (KM)

MEMORANDUM OPINION

KEVIN MCNULTY, U.S.D.J.

Petitioner, Anthony Lancaster, is an immigration detainee who is presently detained at the Essex County Correctional Facility, in Newark, New Jersey. He is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. For the following reasons, and upon consent of respondent, the habeas petition will be granted insofar as petitioner will be remanded for a bond hearing.

Petitioner is a native and citizen of Trinidad and Tobago. He entered the United States in August 2003 and resided here since that time. On September 11, 2017, the Department of Homeland Security, Immigrations and Customs Enforcement, (“ICE”) commenced removal proceedings against him and took him into immigration custody. Petitioner has apparently remained in immigration custody since that time.

Petitioner filed this habeas petition on May 14, 2018. He argued that his detention had exceeded the constitutional restrictions on mandatory detention under 8 U.S.C. § 1226(c) and sought an order granting immediate release or, alternatively, directing that he receive an individualized bond hearing. On May 17, 2018, I ordered respondent to file an answer

responding to the petition. (ECF No. 4.) Counsel for respondent subsequently filed a response indicating that petitioner was detained under 8 U.S.C. § 1226(a). (ECF No. 6.) The response explained that a bond hearing before an immigration judge had been set for October 11, 2017, but that the hearing was repeatedly adjourned at Petitioner's request. (*Id.*) It indicates that a bond hearing is presently scheduled for July 11, 2018. (*Id.*) Accordingly, Respondent does not object to an order remanding the matter for a bond hearing and asks that the hearing set for July 11, 2018 be permitted to proceed. (*Id.*)

An alien taken into custody pending a removal determination under 8 U.S.C. § 1226(a) may be detained or may be released on bond or parole. Generally, aliens detained under § 1226(a) should receive a bond hearing at the outset of detention. *See* 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1). As respondent seemingly concedes that petitioner should receive a bond hearing and explicitly does not object to the ordering of such a hearing, I will remand this proceeding to the Immigration Court for that purpose. As a hearing is already set for July 11, 2018, I will permit that hearing to satisfy this remand. An appropriate order will be entered.

DATED: June 20, 2018

A handwritten signature in black ink that reads "Kevin McNulty". The signature is written in a cursive, slightly slanted style.

KEVIN MCNULTY
United States District Judge